

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

MICHAEL KELLEY

v.

UNITED STATES OF AMERICA

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No. 1:13-cv-70/1:08-cr-51
Judge R. Leon Jordan

JUDGMENT ORDER

For the reasons expressed in the memorandum opinion filed herewith, it is hereby **ORDERED** that Michael Kelley's ("Kelley") motion filed pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence is **DENIED** (Criminal Court File No. 376). In addition, Kelley's motions requesting discovery, to expand the record, investigative services and funds, and to grant his discovery motions are **DENIED** (Criminal Court File Nos. 378, 379, 380, 390), and his motions requesting an extension of time in which to file a reply and a status conference are **DEEMED MOOT** (Criminal Court File Nos. 392, 394).

Additionally, the Court has reviewed this case pursuant to Rule 24 of the Federal rules of Appellate Procedure and hereby **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, any application by Kelley for leave to proceed *in forma pauperis* on appeal is **DENIED**. Fed. R. App. P. 24.

Should Kelley give timely notice of an appeal from this order, such notice will be treated as an application for a certificate of appealability, which is hereby **DENIED** since he has failed to make a substantial showing of the denial of a constitutional right or that jurists of reason could debate the Court's resolution of his § 2255 motion. *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000) ("To obtain a COA under § 2253(c), a habeas prisoner must make a substantial showing of the denial of a constitutional right, a demonstration that, under *Barefoot v. Estelle*, 463 U.S. 880, 894 (1983)]

includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” (citation omitted)); 28 U.S.C. § 2253(c)(2); Rule 22(b) of the Federal Rules of Appellate Procedure.

The Clerk of Court **SHALL** close the record in this case.

IT IS SO ORDERED.

ENTER:

s/ Leon Jordan
United States District Judge

ENTERED AS A JUDGMENT

s/ Debra C. Poplin

DEBRA C. POPLIN
CLERK OF COURT